

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
ENTERED

AUG 07 1997

Michael N. Milby, Clerk

HAGGERTY ENTERPRISES, INC.	)	
	)	
Plaintiff,	)	
	)	Civil No. H-97-1830
v.	)	
	)	
ORIGINAL LIGHTING INC.,	)	
GEMMY INDUSTRIES, CORPORATION,	)	
WALGREEN COMPANY,	)	
KAY-BEE CENTER INC., and	)	
LIPAN INDUSTRIAL CO., LTD.	)	
	)	
Defendants.	)	

**CONSENT PERMANENT INJUNCTION AND FINAL JUDGMENT**

THIS CAUSE came before the Court upon Plaintiff's Complaint, and Plaintiff Haggerty Enterprises, Inc. ("Haggerty") and Defendants Gemmy Industries Corporation ("Gemmy"), Kay-Bee Center Inc. ("Kay-Bee"), and Walgreen Company ("Walgreen") having settled their differences and having consented to the entry of the below set forth permanent injunction and final judgment, and the Court having considered the record, and being otherwise duly advised, it is hereby

ORDERED AND ADJUDGED that with respect to any and all claims against Gemmy, Kay-Bee, and Walgreen the following shall be the FINAL JUDGMENT herein:

1. U.S. Trademark Registration No. 1,611,140 ("the CONFIGURATION") and U.S. Trademark Registration No. 852,625 for LAVA LITE are owned by Haggerty, are valid, and have been infringed by Gemmy, Kay-Bee, and Walgreen.

2. Each of Gemmy, Kay-Bee, and Walgreen, and their

respective officers, directors, agents, servants, employees, and all persons, firms, corporations acting or claiming to act on their behalf or under their direction or authority are hereby PERMANENTLY ENJOINED from any and all use of the CONFIGURATION or any lamp configuration likely to be confused with the CONFIGURATION, including but not limited to the configuration of the "Groove Tube Volcano" lamp or any configuration wherein a tapered transparent container separates a base and top piece, wherein the visible portion of the container is axially symmetric, and wherein the overall silhouette of the lamp is substantially sleek and streamlined and from any and all use in connection with lamps of any name which includes the term "LAVA" or anything confusingly similar thereto, including but not limited to "Volcano" and "Groove Tube Volcano."

3. This PERMANENT INJUNCTION shall not apply with respect to any claim of any intellectual property that has expired or been found or adjudicated invalid or unenforceable by any court or agency of competent jurisdiction, provided that such finding or judgment has become final and nonreviewable.

4. No party in this action shall receive costs or attorney's fees as part of this Judgment.

DONE AND ORDERED at the United States District Court this 6 day of Aug, 1997.

  
United States District Judge



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312-634-5000

TO:972 5507979

PAGE:11

Consented to on behalf of Haggerty

July 31, 1997

Ronald L. Engel  
Ronald L. Engel  
KECK, MAHIN & CATE  
77 West Wacker Drive  
Chicago, IL 60601  
(312) 634-7700

Consented to on behalf of  
Gemmy

\_\_\_\_\_, 1997

By: [Signature]

Title: V.P.

Consented to on behalf of  
Kay-Bee

\_\_\_\_\_, 1997

By: \_\_\_\_\_

Title: \_\_\_\_\_

Consented to on behalf of  
Walgreen

\_\_\_\_\_, 1997

By: \_\_\_\_\_

Title: \_\_\_\_\_

300A9455

Consented to on behalf of Haggerty

July 31, 1997

Ronald L. Engel  
Ronald L. Engel  
KECK, MAHIN & CATE  
77 West Wacker Drive  
Chicago, IL 60601  
(312) 634-7700

Consented to on behalf of  
Gemmy

\_\_\_\_\_, 1997

By: \_\_\_\_\_

Title: \_\_\_\_\_

Consented to on behalf of  
Kay-Bee

7-28, 1997

By: Albert J. Bell  
Albert J. Bell  
Senior Vice President and Secretary  
Title: \_\_\_\_\_

Consented to on behalf of  
Walgreen

\_\_\_\_\_, 1997

By: \_\_\_\_\_

Title: \_\_\_\_\_

300A9455

July 31, 1997

Consented to on behalf of Haggerty

Ronald L. Engel  
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KECK, MAHIN & CATE  
77 West Wacker Drive  
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(312) 634-7700

Consented to on behalf of  
Gemmy

\_\_\_\_\_, 1997

By: \_\_\_\_\_

Title: \_\_\_\_\_

Consented to on behalf of  
Kay-Bee

\_\_\_\_\_, 1997

By: \_\_\_\_\_

Title: \_\_\_\_\_

Consented to on behalf of  
Walgreen

July 31, 1997

By: Ronix R. Delaney

Title: SENIOR ATTORNEY

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